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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,991	04/13/2004	Michael Man King Baldry	2004-1007	3342

37476 7590 04/27/2005

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ARNOLD, MD 21012

EXAMINER

MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/822,991

Applicant(s)

BALDRY, MICHAEL MAN KING

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 15, 17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15, 17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-3,6-12,15-17,19-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 1** has unclear/ambiguous limitations rendering the claimed apparatus indefinite.

For example: "the track .....intersects with a plurality of locations....circular questions disks....may be placed.

"intersects with a plurality of locations" is unclear in meaning and structure.

"circular questions disks" is a run-on expression with no clear meaning and structure.

"may be placed" is not a definite expression (Also in applicant's claims 6 and 17).

Further, ....a game **as define(d)** in claim.... phrase requires correction at several places (claim 3,4 etc.).

**In claim 5**, line 4: It is not clear which "the adjacent spaces" the claim refers to from the two different "adjacent spaces " in claim 1.

**Claims 6 and 17** recite limitations "all locations" "the game board track" in the claims.

There is insufficient antecedent basis for these limitations in the claims.

**Claims 6 and 17** recite the limitation "the target language" in the claim. There is insufficient antecedent basis for this limitation in the claims.

**Also in claim 6** "each of said playing markers in turn, having moved one set of playing markers" is confusing.

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Applicant may note that a claim should be constructed to stand on its own. Arranging "question discs" and "landing on a question square" have no antecedent basis in the claim. Also "describing the meaning of a picture" will only make sense if there was a prior reference **in the claim** of a limitation presenting a picture somewhere in some form.

Along those lines all underlined and newly added limitations in claim 6 should have a prior reference in the claim as an antecedent basis.

**In short, in order to practice a method claim a proper environment/apparatus is necessary in the claim.**

**In applicant's claims 6 and 17 there is no correspondence between various parts of the apparatus provided for practicing the method.** Claims 6 and 17 provide for the use of question discs, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

**Claims 6 and 17** is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966). All depended claims coming from claim 6 are rejected for above reasons. Also all dependent claims should be reviewed for such deficiencies as mentioned above.

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**Claim 17:** The amended claim 17 has sentences with no clear meaning, e.g. "a set of question discs.....where the arranging question.....may be placed;" Claim 17 is also replete with terms/limitations, at least two occurrences of "arranging question disks.....may be placed;"

**Claim 19**, dependency from anyone of 17-19, is incorrect in view that claim 18 is canceled.

2. All claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. **(See above for some examples. All claims require reviewing and correction for all such deficiencies.)**

***Claim Rejections - 35 USC § 102***

3. Claims 1-2,4 rejected under 35 U.S.C. 102(b) as being anticipated by Lynn (6361048).

Lynn teaches a board game (12), with track (79), a set of question discs (26) (8:25-35), die (40), playing pieces (32), start and finish spaces (3:23-28). Applicant may note that spaces (30) in the disks (26a-d) in Lynn reference can be interpreted as additional adjacent spaces in a circular fashion and radially extending around the center as can be seen from Fig.1.

***Claim Rejections - 35 USC § 103***

4. Claims 3,5,12 rejected under 35 U.S.C. 103(a) as being unpatentable over Lynn in view of Bryant (5244391).

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Lynn teaches all limitation except that it does not use a spinner as random device.

Bryant teaches a spinner attached on a rigid board.

Spinners are art recognized equivalents for dice and used extensively.

One of ordinary skill in art at the time the invention was made would have suggested using spinners instead of dice for making the game attractive.

5. Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant

Bryant teaches players having game pieces (Fig.2), moving pieces from start (30) to finish(40) using cards a random device (16), question disc (48), spinning arrow (52).

Bryant teaches all limitations except that it does not teach answering according to the level of the skill of the player. It is common knowledge that answers are always according to the skills of the players. Any answer can be interpreted as answer coming from the player of some skill. The important thing to note here that the limitations do not specifically spell skills clearly with respect to questions of particular skills and not answers to particular skills.

### ***Response to Arguments***

6. Applicant's arguments filed 2/8/05 have been fully considered but they are not persuasive. With respect to claims 1-2 applicant may note that spaces (30) in the disks (26a-d) in Lynn reference can be interpreted as additional adjacent spaces in a circular fashion and radially extending around the center as can be seen from Fig.1.

7. Applicant's arguments with respect to claims 3-5,12,17 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKm  
April 19, 2005